In the High Court of Judicature at Madras

Dated:05.07.2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM

Civil Revision Petition (PD) No.855 of 2006
and M.P.No.1 of 2006

1. Karpagam
2. A. Kala @ Vallinayagi
3. S. Chandrasekaran .. Petitioners

vs.

1. R. Sakunthala
2. C. Balakrishnan
3. B. Lakshmi
4. R. Vasanthamani
5. B. Sakunthala
6. B. Vijaya
7. B. Rameshkumar .. Respondents

Revision Petition filed under Article 227 of the Constitution of India against the order dated 18.04.2006 made in I.A.No.134 of 2006 in O.S.No.874 of 2004 on the file of Additional District and Sessions Judge, FTC II, Coimbatore.

For petitioner : Mr. K. Kalyana Sundaram

ORDER

The grievance of the petitioners is that the plaintiffs have not paid correct court fee and filed the present application seeking the Court to take up the payment of court fee as a preliminary issue before proceeding further. The learned trial Judge, after finding that, the petitioners have filed the present petition after examination of PW.1 and at the time of cross examination, dismissed the same.

2. The learned counsel appearing for the petitioners fairly admitted that the issue relating to court fee has already been framed. In such circumstance, whether proper court fee has been paid or not can be considered in the main suit and when such remedy is available, I am of the view that there is no need to decide the same as a preliminary issue.

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Hence, I am in agreement with the reasoning of the learned trial Judge; consequently, the revision fails and the same is dismissed. No costs. Connected MP., is also dismissed.

It is made clear that in view of the fact that separate issue has already been framed relating to payment of court fee, the Court below is directed to consider the same along with other issues after affording opportunity to both parties.

kh

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

The Additional District
and Sessions Judge
FTC No.II, Coimbatore.

1 cc To Mr.K.Kalyana Sundaram, Advocate, SR.29098.

C.R.P.(PD)No.855/06

AK(CO)
RVL 17.07.2006

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